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ROGER H. CHU 19499 ERIC DRIVE SARATOGA, CA 95070			NALEVANKO, CHRISTOPHER R	
			ART UNIT	PAPER NUMBER
			2611	
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Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/585,707	<b>Applicant(s)</b> CAO ET AL.	
	<b>Examiner</b> Christopher R. Nalevanko	<b>Art Unit</b> 2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 May 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 05/09/2005 have been fully considered but they are not persuasive.

Regarding Claim 1, 15, and 18, Applicant argues that "Ellis is directed to an interactive television program guide system (see abstract). Ellis discloses "Recorded programs may be referenced by pointers that are maintained in one or more directories. A directory of pointers for each user, for example, may be stored in memory 13 or RAID 55. User directories may also be maintained locally by the program guides. An illustrative arrangement for user directories and other directories is shown in FIG. 4" (see (0082). Ellis further teaches "Illustrative entries 121 in job queue 120 are also shown in FIG. 5. The entries 121 may include, for example, the dates, start times, end times (or durations), channels, and program identifiers for the programs that have been selected for recording on remote media server 24" (see (0087)). Ellis is silent about ending address of a recorded program as evident in Figs. 4 and 6" (pages 9-10 lines 25-6). As clearly indicated by the Applicant, a directory of pointers is created that references the programs to be recorded (page 6 section 0082-0083, media directory storing information regarding a record request). Although this is not called an "index," the directory clearly meets the limitation of an index, as it provides a data structure containing a variety of information regarding a pause or recording request. Furthermore, as indicated by the Applicant, Ellis clearly shows entries in the queue that designate the dates, start times, end times, durations, channels, and program identifiers for the programs that have been selected for

Art Unit: 2611

recording (page 6 section 0087, variety of program information used to indicate proper recording and pause functions). Applicant then argues that the “ending address” limitation is not met. Examiner points out, and is admitted by the Applicant, that Ellis clearly discloses the use of “end time” to denote the duration of the recorded or paused program. In the claimed limitation, the “ending address” is used to denote the “ending location of the particular one of the broadcasted programs in the local storage.” As such, the “end time” data in Ellis clearly reads on the “ending address” in the claim because both denote the duration of the program that is, or is going to be, stored in the memory. Denoting an “address” as opposed to a “time” is not a patentable distinction. Both pieces of data are used by the system to determine the appropriate stopping or ending point of the program. Finally, since the “end time” in else is stored as a data structure in memory, it must be given some sort of address in memory to be appropriately stored.

2. Applicant's arguments with respect to claim 12 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Art Unit: 2611

3. Claims 1-8, 10, 11, and 13-22 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Ellis et al (2003/014998).

Regarding Claim 1, Ellis shows a method for delivery of scheduled broadcasted programs (page 3 section 0060, any type of show or television programming) from a media server to a plurality of client machines via a transmission media (fig. 2a, distribution facility with remote media server, page 4 section 0065, communications path, page 5 sections 0073-0075, remote media server), the method comprising caching program content of broadcasted programs in local storage associated with the media server (page 7 section 0094-0096, media server caching recorded programs, page 15 sections 0165-0166, remote media server caching program in real-time associated with pause request), the broadcasted programs being produced externally (it is inherent that a cable head-end receives programming from a producing source), delivering the broadcasted programs from the media server the client machines by streaming the program content from the local storage to the client machines via the transmission medium (page 7 section 0097, streaming to client from remote media server), receiving at the media server (page 15 sections 0165-0166, issuing pause request to remote media server) a pause request from a particular on of the client machines requesting to pause a particular one of the programs (page 15 sections 0165-0166), creating an index containing a date, a time, a starting address, and an ending address, wherein the date and time indicate when the request was made, the starting address is determined by the date and the time indicating the starting poison of the program, and the ending address indicates the ending location of the programs in storage (page 6 sections 0082-0083,

media directory storing information regarding a record request, section 0087, variety of program information used to indicate proper recording and pause functions, fig. 4 and 5), and while continuing to deliver the programs to remaining clients (it is inherent that a pause request does not stop all other clients machines, page 7 section 0094-0096, not interrupting other users of a recorded program with VCR like controls) performing the pause request by server-side retention of the program content for the particular one of the broadcasted programs so as to render the program content following the pause request to be subsequently available to a device chosen by a user of the particular one of the client machines (page 6 section 0081, allocated space for each user in media server, page 15 sections 0165-0166, remote media server stores program from pause request forward), as if the user is continuing live with the programs while the other machines are ahead of the program (page 15 sections 0165-0166, catch up to aired program, signifying that they are behind actual program time).

Regarding Claim 2, Ellis shows, during a pause request, recording in the local storage a location of the program (page 14 section 0157, pointer in storage of program, page 15 sections 0165-0166, storing paused program at location in storage).

Regarding Claim 3, Ellis shows that the programs are stored in a storage space on the media server (page 6 section 0081, allocated space for each user in media server, page 15 sections 0165-0166, remote media server stores program from pause request forward).

Regarding Claim 4, Ellis shows that the transmissions medium is a data network (page 4 section 0065, communications path).

Regarding Claim 5, Ellis shows that the data is digital data (page 4 section 0064, digital television signals).

Regarding Claim 6, Ellis shows the ability to determine if an account for a user permits a pause request and ignoring the pause request when the account does not permit the pause (page 12 sections 00136-0141, checking user status, indicating that user must pay, and user denying payment, effectively ignoring pause command, page 15 section 0165, asking for payment and denying pausing if no payment). Ellis shows a variety of ways of controlling the pause request such as requiring the user to pay each pause or record time, therefore if the user selects not to pay, the pause request is not carried out. Furthermore, Ellis shows indicating that a user may not record a show (page 13 section 0144).

Regarding Claim 7, Ellis shows sending a request to a server for a stored program delivering the remaining portion of the program from storage on server-side to the client through the transmissions medium (page 15 section 0165).

Regarding Claim 8, Ellis shows that a request includes what user sent the request (page 7 sections 0091-0092, fig. 4, user #). This indicates that the system can tell what user issued a request and knows where to send the requested video.

Regarding Claim 10, Ellis shows that a number of the delivered programs are delivered by a schedule (page 3 section 0060, television programming related to listings or schedule, page 7 section 0097, NVOD approach scheduling video program delivery).

Regarding Claim 11, Ellis shows that the transmissions medium is a data network (page 4 section 0065, communications path).

Regarding Claim 13, Ellis shows the ability to determine if an account for a user permits a pause request and ignoring the pause request when the account does not permit the pause (page 12 sections 00136-0141, checking user status, indicating that user must pay, and user denying payment, effectively ignoring pause command, page 15 section 0165, asking for payment and denying pausing if no payment). Ellis shows a variety of ways of controlling the pause request such as requiring the user to pay each pause or record time, therefore if the user selects not to pay, the pause request is not carried out. Furthermore, Ellis shows indicating that a user may not record a show (page 13 section 0144).

Regarding Claim 14, Ellis shows the ability to determine if an account for a user permits a pause request and ignoring the pause request when the account does not permit the pause (page 12 sections 00136-0141, checking user status, indicating that user must pay, and user denying payment, effectively ignoring pause command, page 15 section 0165, asking for payment and denying pausing if no payment). Ellis shows a variety of ways of controlling the pause request such as requiring the user to pay each pause or record time, therefore if the user selects not to pay, the pause request is not carried out. Furthermore, Ellis shows indicating that a user may not record a show (page 13 section 0144). Additionally, Ellis shows confirming the pause request, which notifies the user (page 15 section 0165, confirmed pause request).

Regarding Claim 15, Ellis shows a media delivery server that provides media program content to client machines, the server comprising an access to a storage area that provides space for storing programs (page 7 section 0094-0096, media server caching



recorded programs, page 15 sections 0165-0166, remote media server caching program in real-time associated with pause request), an account manager to determine whether a request by a client is authorized based on account information (page 12 sections 00136-0141, checking user status, indicating that user must pay, and user denying payment, effectively ignoring pause command, page 15 section 0165, asking for payment and denying pausing if no payment), a program streaming manager to stream content to clients (page 7 section 0097, streaming to client from remote media server) in accordance with a schedule (page 3 section 0060, television programming related to listings or schedule, page 7 section 0097, NVOD approach scheduling video program delivery), and a pause/replay manager for receiving request and retaining the requested program in storage (page 15 sections 0165-0166, issuing pause request to remote media server) and creating an index containing a date, a time, a starting address, and an ending address, wherein the date and time indicate when the request was made, the starting address is determined by the date and the time indicating the starting position of the program, and the ending address indicates the ending location of the programs in storage (page 6 sections 0082-0083, media directory storing information regarding a record request, section 0087, variety of program information used to indicate proper recording and pause functions, fig. 4 and 5) while continuing to stream content for the program to remaining clients (it is inherent that a pause request does not stop all other clients machines, page 7 section 0094-0096, not interrupting other users of a recorded program with VCR like controls) and processing a play request within a predefined time limit (page 15 sections 0165-0166, resume request, page 6 section 0083, predetermined time limit, page 16 section 0169,

Art Unit: 2611

automatically deleting program if not accessed within a predetermined amount of time), as if the user is continuing live with the programs while the other machines are ahead of the program (page 15 sections 0165-0166, catch up to aired program, signifying that they are behind actual program time).

Regarding Claim 16, Ellis shows that the transmissions medium is a data network (page 4 section 0065, communications path).

Regarding Claim 17, Ellis shows using MPEG format (page 5 section 0077).

Regarding Claim 18, Ellis shows using a computer readable medium including computer code for delivery of broadcast programs (page 5 section 0077-0078, remote media server with processor and memory with code). All other limitations of the claim have been discussed with regards to Claim 1.

Regarding Claim 19, Ellis shows that the transmissions medium is a data network (page 4 section 0065, communications path).

Regarding Claim 20, the limitations of the claim have been discussed with regards to Claim 10.

Regarding Claim 21, the limitations of the claim have been discussed with regards to Claim 3.

Regarding Claim 22, the limitations of the claim have been discussed with regards to Claim 13.

Regarding Claim 23, the limitations of the claim have been discussed with regards to Claim 7.

***Claim Rejections - 35 USC § 103***

Art Unit: 2611

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis et al (2003/0149988) in further view of Goode et al (6,166,730).

Regarding Claim 9, Ellis fails to show that the resuming location differs from the initial location. Goode shows the ability to resume a paused video at a different location than the location initially viewed (col. 14 lines 25-55, open session allowing a different set top box to continue watching a video). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Ellis with the ability to view the remaining video at a different location, as in Goode, so that if a user was logged into a different computer or location he or she could still finish the video.

5. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis et al (2003/0149988) in further view of Sartain et al (5,914,712).

Regarding Claim 12, Ellis fails to show that the location is determined by a telephone number. Sartain shows using a users telephone number to determine a specific user and the permission of the terminal (col. 5 lines 1-22, using the user's telephone number to determine account settings and access to the system). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to

Art Unit: 2611

modify Ellis with the ability to use the telephone number so that the system could conveniently identify a user's terminal and access level to the system.

*Conclusion*

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher R. Nalevanko whose telephone number is 571-272-7299. The examiner can normally be reached on M-F 8-5.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on 571-272-7294. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2611

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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